

## **Exhibit A**

### **Plaintiff's Deposition Exhibits**

## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 1**

EMPLOYMENT AGREEMENT  
DONATO I. APONTE - NAVEDO  
NALCO CHEMICAL COMPANY

THIS AGREEMENT made and entered into by and between

DONATO I. APONTE-NAVEDO  
 (hereinafter called "Employee") and Nalco Chemical Company, a  
 Delaware corporation with its principal office in Illinois, (hereinafter  
 called "Nalco").

## WITNESSETH:

WHEREAS, Employee is being employed by Nalco and occupies a trusted position whereby he is enabled to obtain confidential information concerning the business of Nalco as well as confidential information concerning the business of Nalco affiliates, subsidiaries, prospective customers, customers, consultants, licensors, licensees and other business associates (hereinafter collectively called "Third Parties"), including customer lists, sales and service data, trade secrets and other confidential information concerning the processes, products and activities of Nalco and Third Parties; and

WHEREAS, Employee may during his employment make or acquire interests in inventions as herein defined; and

WHEREAS, Employee represents that his training and experience have been such that he may earn a livelihood through employment by commercial firms which do not compete with Nalco; and

WHEREAS, Nalco and Employee agree that the covenants and agreements hereinafter set forth are a part of Employee's employment.

NOW, THEREFORE, in consideration of Employee's employment and payment of compensation by Nalco, and in view of Employee's trusted position with Nalco, it is agreed as follows:

1. During his employment by Nalco, Employee shall devote all his time and attention and give his best efforts and skill exclusively to the interests of Nalco during reasonable business hours and shall perform such services for Nalco as may from time to time be assigned to him. Employee shall in all respects use his best efforts to conserve and promote the best interests and welfare of Nalco.
2. Employee shall not, directly or indirectly, under any circumstances or at anytime, either during his employment by Nalco or after its termination, communicate or disclose to any person, firm, association or corporation, or use for his own account, without Nalco's consent, any information acquired by him in the course of or incident to his employment, relating to or regarding any inventions, discoveries, improvements, machines, devices, processes, products, formulae, designs, projects, mixtures and/or compounds, whether patentable or not, (hereinafter collectively called "technical information") that may have been, are now, or may hereafter during the term of his employment by Nalco be made, used, devised, considered or investigated by or for Nalco or Third Parties, and he will at all times keep secret and hold inviolate said technical information, the Employee hereby agreeing that all the foregoing has been and shall be received by him as confidential communications, provided, however, that the obligations of this paragraph shall not apply in the event and to the extent that the aforesaid matters are or become generally known to and available for use by the public otherwise than by the act or omission of Employee, except that Employee shall in no event, at any time without Nalco's consent, disclose any identity or correlation between matters publicly known and available and Nalco's technical information or said Third Parties' technical information.

3. Employee shall not, directly or indirectly, under any circumstances or at any time, either during the term of his employment or after its termination, communicate or disclose to any person, firm, association or corporation, or use for his own account, without Nalco's consent:

(a) any information acquired by him in the course of or incident to his employment relating to or regarding the names of customers of Nalco or Third Parties, the sales or service data of Nalco or Third Parties, furnished to him or secured by him in the course of his employment, or any data or information concerning the business or activities of Nalco or Third Parties; or,

(b) any computer software owned by Nalco or licensed by Nalco from a Third Party, or any computer access codes belonging to Nalco or a Third Party.

4. All property of Nalco including but not limited to identification cards, keys, office equipment, books, laboratory notebooks, credit cards, customer lists, sales and service manuals and data and all other writings, records and documents made by or coming into the possession of employee in the course of or incident to his employment, concerning any of the matters referred to in paragraphs 2, 3 or 6 of this agreement or otherwise concerning the business or activities of Nalco or Third Parties, shall be returned to Nalco upon termination of employee's employment or on request of Nalco at any other time.

5. Employee will not, directly or indirectly, during his employment and for a period of two (2) years immediately after termination of his employment:

(a) engage or assist in the same or any similar line of business competing with the line of business now or hereafter conducted or operated by Nalco during the term of Employee's employment by Nalco, whether as consultant, employee, officer, director, or representative of such competing business within the United States of America; provided, however, that in the event that the Employee's position with Nalco immediately prior to termination is that of field representative, then the geographic area of this non-competition covenant shall be limited to that geographic area within the United States of America for which Employee was responsible at any time during the two-year period immediately preceding termination; and,

(b) alone or in concert with others, employ or attempt to employ, induce, or solicit for employment in the same or any similar line of business now or hereafter conducted or operated by Nalco during the term of Employee's employment by Nalco, other employees of Nalco;

provided further that in the event that any court of competent jurisdiction shall find that the above restrictions are unreasonable with respect to their territorial extent and/or period of time involved, that such finding shall not invalidate any of the foregoing provisions with respect to the territorial extent or period of time which is reasonable, and said restrictions shall be construed to apply only to the territory and period of time so found to be reasonable by said court.

6. Employee will communicate and disclose in writing to his superior in Nalco or to such person as may be designated by Nalco both during his employment and thereafter, all of those inventions, discoveries, improvements, machines, devices, designs, processes, products, software, treatments, formulae, mixtures and/or compounds whether patentable or not as well as patents and patent applications (all the foregoing being hereinafter collectively called "inventions") made, conceived,

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developed or acquired by Employee or under which he acquired the right to grant licenses or become licensed, whether alone or jointly with others, during his employment by Nalco. All his right, title and interest in, to and under such inventions, including licenses and right to grant licenses shall be the sole property of Nalco and Employee hereby assigns and agrees to assign the same to Nalco. Any invention disclosed by Employee to anyone within one (1) year after termination of his employment with Nalco, which relates to any matters pertaining to, applicable to, or useful in connection with, the business of Nalco shall be deemed to have been made or conceived or developed by Employee during his employment by Nalco, unless proved to him to have been made and conceived and developed after termination of his employment with Nalco.

7. As to all such inventions as defined in paragraph 6, employee will, upon request of Nalco, during his employment or thereafter:

- (a) execute and deliver all documents which Nalco shall deem necessary or appropriate to assign, transfer and convey to Nalco, all his right, title, interest in and to such inventions, and enable Nalco to file and prosecute applications for Letters Patent of the United States and any foreign countries on inventions as to which Nalco wishes to file patent applications, and,
- (b) do all other things (including the giving of evidence in suits and other proceedings) which Nalco shall deem necessary or appropriate to obtain, maintain, and assert patents for any and all such inventions and to assert its rights in any inventions not patented.

8. Employee's obligation under paragraphs 6-7 does not apply to inventions for which no equipment, supplies, facility or trade secret information of Nalco was used, and which were developed entirely on the employee's own time unless:

- (a) the inventions relate
  - (i) to the business of Nalco or,
  - (ii) to Nalco's actual or demonstrably anticipated research or development; or,
- (b) the inventions result from any work performed by the employee for Nalco.

9. Employee hereby assigns to Nalco the copyright in all works prepared by Employee which are either:

- (a) within the scope of his employment; or,
- (b) based upon information acquired from Nalco not normally made available to the public; or,
- (c) commissioned by Nalco not within Employee's scope of employment.

Employee agrees to submit all such works to his Nalco Supervisor for approval prior to publication or oral dissemination.

Employee hereby releases and allows Nalco to use, for any lawful purpose, any voice reproduction, photograph, or other video likeness of employee made in the scope of his employment.

All expenses incident to any action required by Nalco or taken in its behalf pursuant to the terms of this agreement shall be borne by Nalco, including a reasonable payment for Employee's time and expenses involved in case he is not then in Nalco's employ, which payment for his time shall in no event amount to more than double his salary for a similar period of time at the rate being paid to such Employee by Nalco at time of termination of his employment.

12. It is expressly understood and agreed that the covenants, agreements and restrictions undertaken by or imposed on Employee hereunder, which are stated to exist or continue after termination of Employee's employment with Nalco shall exist and continue irrespective of the method or circumstances of such termination.

13. Employee and Nalco agree that if any of the covenants, agreements or restrictions on the part of Employee are held to be invalid by a court of competent jurisdiction, such holding will not invalidate any of the other covenants, agreements and/or restrictions herein, it being intended that the covenants, agreements and/or restrictions herein contained shall be severable and that the invalidity of one shall not invalidate any others.

14. Employment with Nalco Chemical Company is contingent upon the signing of this Employment Agreement.

15. This Agreement and its terms are applicable from the date Employee's employment with Nalco began. It is understood and agreed to by both Employee and Nalco that this Agreement does not create or provide for any period of employment of Employee by Nalco, that said employment of Employee shall be at-will and said employment can be terminated with or without cause, and with or without notice, at any time by either Employee or Nalco.

16. As used herein, in case of female Employees signing this Agreement the masculine shall mean the feminine. The references herein to affiliates of Nalco mean corporations, domestic or foreign, more than twenty-five per cent (25%) of whose voting stock is owned directly or indirectly by Nalco.

17. This Agreement shall inure to the benefit of the successors and assigns of Nalco. Insofar as the same may be applied thereto the terms and provisions hereof shall apply to and bind Employee's heirs, legal representatives and assigns.

IN WITNESS WHEREOF Employee has read, understood and has duly executed this instrument and Nalco has caused this instrument to be duly executed by its authorized officer.

Donald J. Young-Clawson  
Employee's Name  
Donald J. Young-Clawson  
Employee's Signature  
Santurce, Jr.  
Place of Signature (City and State)  
6/10/96  
Date of Signature

R. W. Murphy  
NALCO CHEMICAL COMPANY Richard W. Murphy  
\* R. W. Murphy Director, Recruiting & Employment  
By R. W. Murphy  
Title Director Manager  
Date 06/10/96

## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 4**



### JOB PROFILE

TITLE: District Representative III	Grade: 75
REPORTS TO: District Manager	DATE: December 23, 2002

**1. GENERAL SUMMARY:** Primary purpose of the position.

Ensures order and revenue growth of Company products and services to assigned customer and prospect accounts by analyzing and meeting customer needs; developing and implementing sales plans; selling products and providing customer support in an assigned geographic territory.

**2. PRINCIPAL ACCOUNTABILITIES:** Essential functions for this position listing the most important first.

1. Achieves annual sales targets by working with the District Manager and senior district sales personnel to establish selling strategy and tactics. Obtains orders and establishes new accounts; plans and organizes daily work; calls on existing and potential sales customers. Analyzes customer needs, requirements, and strategic plans recommending solutions with Company programs. Keeps management informed through regular activity reports and communications.
2. Meets or exceeds the required minimum daily sales calls as set by the assigned group. May be accompanied by district management personnel.
3. Calls on customer facilities and observes and implements practical application of products. Services assigned accounts. Recommends changes in chemical dosages, flow rates, or equipment. Reports changes or problems to District Manager and then customer.
4. Begins to work with existing customers to seek new applications for existing products. With assistance from senior sales personnel and the District Manager, develops and executes account sales plans.
5. Upon attaining the required level of technical competency and sales skills, assumes both sales and service responsibilities within an assigned territory. Applies the Six Service Standards striving to improve their quality and document value provided to the customer. Under direct supervision, plans and carries out sales and service calls.
6. Maintains close contact with district management regarding account activity, customer needs, prices, competitor activity, and Nalco product acceptability.
7. Develops and maintains a sales pyramid and other required reports or documentation.
8. Responsible for all aspects of safety on the job, including the operation and maintenance of assigned company vehicles. Responsible for reading and complying with Nalco policies on Safety, HAZMAT, Product Stewardship and shipping of analytical samples. Complies with all local safety regulations.
9. Supports and is committed to Nalco's Quality Improvement Process and the guiding policies of Responsible Care®, and its seven codes of management practice.

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**3. SUPERVISORY/ BUDGET RESPONSIBILITY**

Supervisory Responsibility Job Titles	Total Number	Financial Responsibility	
		Annual Budget	Annual Sales
			\$0.5 – 1.0 MM USD

**4. JOB REQUIREMENTS**

The **MINIMUM** amount of experience needed for an individual to be effective in the job.

- Completed the Nalco Sales Training Program and shows potential in a career as an Nalco representative.
- Demonstrated ability and enthusiasm for selling

**Formal Training:** The lowest level of formal education required for an individual to be effective in this job, e.g., high school, two years of college, bachelors degree in mathematics, etc.

- BA / BS in a science or technical specialty

## 5. COMPETENCY PROFILE

The most critical competencies for this job and associated behavioral examples are outlined in the table below.

Organizational Competencies	Stages				Example Behaviors
	I	II	III	IV	
Co-operation	X				Learns how different functions work together to meet organizational needs. Actively participates in team activities and projects. Observes team dynamics. Avoids behavior damaging to the spirit of teamwork. Actively learns how each role fits in with others' roles. Helps out when asked.
Achievement	X				Pushes self to ensure timely accomplishment of assigned tasks. Prioritizes work. Manages own work to increase efficiency. Seeks guidance when unsure. Notifies manager promptly upon discovery of obstacles. Seeks feedback in order to make adjustments. Tries to exceed established goals.
Communication	X				Learns what amount of formality is appropriate in organizational relationships. Learns when to ask questions and to whom. Presents information clearly and concisely. Builds credibility by providing reliable information. Learns style and level of detail appropriate for communicating. Provides information to others without over-communicating.
Customer Focus	X				Learns how to obtain, clarify, and understand customers' requirements and needs. Learns how to service customer needs. Builds a reputation of reliability with customers. Learns common causes behind customer service failures. Understands organizational guidelines about relating to customers.
Job-Specific Competencies					
Active Learning		X			Looks for ways to build challenge into current assignment. Learns from successes and failures. Takes the initiative to upgrade personal skills and abilities. Remains open to learning opportunities, even if they are outside comfort zone.
Influencing	X				Persuades others for the purpose of following a course of action that is aligned with individual and organizational objectives. Persuades others to commit to ideas and/or action. Has a personal style that helps positively persuade others. Minimizes differences in status when working with others.

## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 5**

NALCO

TO: Donato Aponte

FROM: Ashok Duggal

DATE: August 14, 2007

RE: Performance Improvement

EXHIBIT

1

**Introduction:**

On February 24, 2007 we discussed your mid year review and other problems with your performance for 2007. I have outlined the deficiencies in your performance specifically your customer satisfaction and overall sales increase.

**Specific deficiencies/issues/problems:**

As discussed following is a list of performance deficiencies:

1. Service deficiency with Baxter. They were very near to terminate our contract and switch to Chemtreat. These deficiencies consisted in:
  - a. Service Visits. These were not consistent and you never let them know when you could not visit them.
  - b. Routine Reports: Haven't been submitted on time and sometimes not at all.
  - c. Taken an excessive amount of time to resolve a CT controller issue.
  - d. Chemical Inventories have been too low for Jorge Morale's taste.
2. Service deficiency with Warner Chilcott. These deficiencies consisted in:
  - a. Service Visits. These were not consistent and you never let them know when you could not visit them.
  - b. Routine Reports: Haven't been submitted on time and sometimes not at all.
  - c. Taken an excessive amount of time to resolve a CT controller issue.
  - d. Chemical Inventories have been too low.
  - e. On May 4 I responded to your Jeopardy report for WC and requested you to explain and detail an action plan to counter attack Chemtreat. I never received anything.
  - f. WC has been requesting continuously the results of a deposit sample, and it has taken an excessive amount of time to submit.
  - g. On May 21, I met with WC and sent you the summary of what they needed immediately. We have reason to believe that over 4 of the 9 points are still not resolved.
3. As of June 30 you are 11% down YTD vs. 2006.
4. \$30,000 down YTD vs. 2006.
5. You have been on the Nalco Credit Card delinquency report at least once this year.
6. I continuously receive notices from the eagls credit card reporting of which they still have not received your receipts of 12 past expense reports.
7. We did not receive January, February, March, and June's monthly District Reports.

\* All yearly expected sales results agreed on are of 10% increase minimum.

**Action**

Regarding the above-mentioned deficiencies the following actions will take place:

Exhibit 1



1. Bullets 1 and 2 are service deficiencies. We are to meet monthly to discuss all service related material, including 6SS. You are to make sure that these are done, by setting dates and follow ups.
2. You are to conduct immediate Business Reviews for all your clients. In the next 45 days.
3. You are to send Customer Feedback surveys to all of your clients. You must follow up and sell them the idea that they are to improve their service from Nalco, so they complete and send them.
4. Bullets 3 and 4 are deficiencies due to that the required agreed on yearly objectives have been minimum 10% net sales growth. You need to meet the agreed upon objectives as written in your 2007 Performance report.
5. In 2007, zero lost accounts are expected.
6. All monthly administration reports must be on time.
7. No more new eagls notices of lacking receipts from expense reports.
8. All other notices from eagls must be dealt with immediately and resolved as of August 2007.
9. Client rapport, service, adapting to their needs, responding to client's timeframe is all expected.
10. Zero preventable accidents are expected.

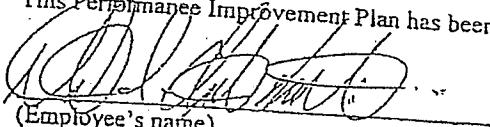
#### Consequences

We will be evaluating your performance again on November 1, 2007. Your failure to meet and sustain the performance objectives and expectations outlined above will result in further disciplinary action up to and including termination.

*This document does not alter the employment-at-will relationship.*

  
(Manager's name)

8/14/07  
Date

  
(Employee's name)

8/14/07  
Date

Cc: Personnel File  
Jorge Castillo  
Stepanie Glashagel

## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 6**

Ashok P Duggal  
05/21/2007 09:34 AM  
To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: Visita Warner Chilcott

Donato,

Aqui hay un resumen de la reunion que tuve con Wilfredo Guardiola, Daniel Resto, Lisandro Rivera, y Albert Koett.

Es urgente resolver el problema de alarmas de pH. Ordenar dos probes para arreglar esto. Si ya no se controla el pH con acido, considera eliminar esta alarma.

Estan instalando otro dearator. Tendra dos dearadores en linea. Uno en operacion y otro en standby, para tener redundancia. Necesitan por escrito sugerencias para el punto de inyeccion de sulfito, incluyendo que necesitan un Quill. Tambien ayudarles hacer un procedimiento, de como operar el dearador con tal caldera. Siempre va haber una caldera en servicio. El procedimiento sera que valvulas abrir con el Dearator con tal caldera. Hasta hacer un matriz.

Ordenar dos quill para instalar en cada DA de 18", para sulfito. Hacer calculos, reporte, de que ahorros podrian haber si usan DI, RO, o Dealkalizer, como make up de las calderas. Si ya tienen tanto retorno de condensado puede ser que no vale la pena el DI o RO. Ya Guardiola envio cuanto gastan por agua. Diesel usa \$2.27/gal.

Quieren usar condensado de manejadoras para MU de CT. Tambien le sugerimos de usar agua de lluvia.

Revizar que los parametros para calderas esten en donde deben. Tambien revizar los parametros de CT esten donde deben, ya que eliminaron el RO y como deben estar al usar agua de condensado, etc. Actualizar Service Plan y discutirlo con ellos.

Estatus de analisis de deposito.

No estan muy contentos con el servicio de Nalco, y Chemtreat esta agresivamente tratando de entrar. Es importante darle el carino y atencion que estan buscando inmediatamente. Reviza el trabajo de Manuel y asegura que esta al agrado de ellos.

Los puntos urgentes tienen que resolverse ya. Para los demas de unas fechas de completacion y acuerdalos con WC.

Cuento contigo para estabilizar esta cuenta.

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Ashok Pablo Duggal  
Area Manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com

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Ashok P Duggal  
05/21/2007 09:34 AM

Page 1 of 1

To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: Warner Chilcott Visit

Donato,

Here is a summary of the meeting I had with Wilfredo Guardiola, Daniel Resto, Lisandro Rivera, and Albert Koett.

Solving the pH alarms problems is urgent. Order two probes to fix that. If the pH is no longer controlled with acid, consider eliminating that alarm. Another deaerator is being installed. It will have two deaerators in line. One operating and the other one on stand-by, in order to have redundancy. They need suggestions in writing for the sulphite injection point, including the fact that they need a Quill. Also help them create a procedure to operate the deaerator with such boiler. There is always going to be a boiler in service. The procedure will be what valves to open with the Deaerator with such boiler. Until a matrix is prepared.

Order two quills to install in each 18" DA for sulphite.

Make calculations, report, what savings they could have if they use DI, RO, or Dealkalizer, to make-up for the boilers. If they already have such return in condensate maybe the DI or RO is not worth it. Guardiola already sent how much they spend for water. Diesel uses \$2.27/gal.

They want to use condensate from handlers for MU of CT. We also suggested using rainwater.

Check to make sure parameters for boiler are where they are supposed to be. Also review CT parameters to make sure they are where they're supposed to be, since the RO has been eliminated, and how they should be when the condensate water is used, etc.

Update Service Plan and discuss it with them.  
Status of deposit analysis.

They are not too happy with the Nalco service and Chemtreat is aggressively trying to get in.

It is important to give them the love and attention they are looking for immediately. Check Manuel's work and make sure it is to their liking.

The urgent items have to be resolved now. As to the rest, some completions dates and agree to them with WC.

I am counting on you to stabilize this account.

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

file:///F:/Nalco/Reps/DA/DA\_email\_Werner Chilcott

5/29/2009

## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 7**

Ashok P Duggal  
02/17/2007 11:27 AM

To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: Reportes mensuales

Donato,  
No encontre los reportes mensuales para Enero?????  
Ni FPC???? Envialos ya!!!

Enviamos estos siempre antes del 3 de cada mes sin falta. Estas a  
probatoria.

El trabajo no termina en las plantas ni reuniones.

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Ashok Pablo Duggal  
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Ashok P Duggal  
02/17/2007 11:27 AM  
To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: Monthly reports

Donato,  
I could not find the monthly reports for January????  
Nor FPC???? Send them now!!!

Always send me these before the 3<sup>rd</sup> of each month without failure. You are on probation.

The work does not end at the plants or the meetings.

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 8**

NALCO

Ashok P Duggal  
03/24/2007 07:38 PM

To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: CP

Donato,

Se envio una encuesta CFS a Paul Fonseca, y en resumen por sus respuestas estamos a HIGH RISK.  
Mucho tiene que ver con la falta de consistencia de servicio, reportes, proyectos especiales.  
Necesitamos hacer un Bus Review ya. Que hemos hecho, que podemos hacer, y discutir el Service Plan.

Me preocupa muchisimo esto.

Muchos de tus clientes estan debiles, ALPLA, Baxter, CP, algun otro?

Que hace falta?

Que hacemos?

Comentarios?

Tenemos que tomar accion ya.

Has enviado CFS a tus clientes? Ya le envie a Paul, Jorge Morales, y Guardiola, enviales a los demás.  
Necesitamos hacer un Bus Rev con todos tus clientes en Abril, coordinalo.

---

Ashok Pablo Duggal  
Area Manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com

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PD: Email va ser archivado en expediente personal.

Donato,

We sent a survey CFS to Paul Fonseca, and to summarize based on their response we are High Risk. A lot of it has to do with a lack of consistency in service, reports, special projects. We need to do a Bus review now. What have we done, what can we do, and discuss the Service Plan.

I am very worried about this. Many of your clients are weak, ALPLA, Baxter, CP, any others? What is needed? What are we doing? Comments? We need to take action now.

EX 8

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Have you sent CFS to your clients? I already sent to Paul, Jorge Morales and

## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 10**

Ashok P Duggal  
05/03/2008 11:31 AM

To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
bcc:  
Subject: Amgen

Donato,

Durante mi visita a Amgen ayer, Viernes 2 de Mayo, algunos me indicaron que el servicio esta decayendo.

Hay que tomar accion inmediata:

Visitas semanales tuyas y otra de Crispin. Al no poder ir, que espero que no sea tan frecuente, hay que avizarme a mi y Amgen. Reportes semanales sin falta, Discutirlo en vivo con los relevantes. Tienes que incluir a Abimael. Me copias, no he visto reporte tuyo hace tiempo.

Se hara un BR este viernes, mayo 9 a las 10:00 am.

Necesitamos darle seguimiento a los proyectos de valor añadido.

Hay que hablar con los de proyecto para ayudarles con los puntos de inyeccion y monitoreo de los equipos nuevos.

Si te piden ayuda o apoyo, hay que reaccionar rapidamente, Incluyeme en todo. Hacer reporte para documentar.

Siempre tienes que mantener un atitud positivo, con ganas de ayudar buscar soluciones.

Manten problemas personales con familia y amistades. No te quejes con los clientes.

Si ellos no tienen tiempo, ve al grano rápidamente. Explica situacion, problemas, consecuencias, soluciones sugeridas.

Tu no puedes parecer impaciente, ni con poco tiempo. No sentiran bien si siempre estas apurado.

Mucho de esto lo he repetido varias veces. No podemos caer frecuentemente. Esto hace muchisima diferencia.

Esto es critico en un trabajo con mucho contacto con personas. Ellos no quieren hablar con alguien que esta negativo y con quejas. Todos prefieren decir, que bueno llego el de Nalco, para hablar, que me resuelva, me de soluciones, me cae bien, etc.

Hablemos, es critico que mejores para el bien de ser Rep. Si no se hara facil para el cliente cambiar.

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Ashok Pablo Duggal  
Area Manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com

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file:///F:/Nalco/Reps/DA/DA Amgen 5-3-08

EX1D

5/29/2009

Ashok P Duggal  
05/03/2008 11:31 AM

Page 1 of 1

To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: Amgen

Donato,

During my visit to Amgen yesterday, Friday, May 2, some people told me that the service was going down.

Immediate action needs to be taken:

Weekly visits from you and another one from Crispin. If unable to go, which I hope will not be so frequently, you have to let me know, and Amgen.

Weekly reports without failure. Discuss it live with relevant people. You have to include Abimael. Copy me, I have not seen a report from you for a long time.

A BR will be done this Friday, May 9, at 10:00 a.m. We need to follow-up on the value-added projects.

We need to talk to the projects' people to help them with the injection points and monitoring of the new equipments.

If they ask you for help or support, we have to react quickly. Include me in everything. Make reports to document.

You have to maintain a positive attitude all the time, with a desire to help find solutions.

Keep personal problems with family and friends. Do not complain with customers.

If they do not have time, go straight to the core issue. Explain situation, problems, consequences, suggested solutions.

You cannot seem to be impatient, or with little time. They will not feel good if you are always in a hurry.

I have repeated a lot of this several times. We cannot fall frequently. This makes a big difference.

This is critical in a job with a lot of contact with people. They do not want to talk to someone who is negative and complaining. They all prefer to say, oh good, the Nalco guy is here, to talk, to solve things for me, to give me solutions, I like him, etc.

Let's talk, it is critical for you to improve for the sake of being a rep. If not it will be easy for the customer to change.

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

file:///F:/Nalco/Reps/DA/DA Amgen 5-3-08

5/29/2009

## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 11**

EXHIBIT

2

Jorge Ortiz

06/23/2008 10:52 PM

To: Ashok P Duggal/USA/Latin/Nalco@NALCO  
cc: Jorge Castillo/USA/Latin/Nalco@Nalco, Stephanie P  
Glashagel/NV/US/Nalco@NALCO  
Subject: Amgen Pharmaceutical Complain

Ashok:

Please attached find the summary for the meeting that was requested last week by the Amgen Utilities personnel, regarding their complain with the Nalco Service at this plant.

Let me know if you need additional information.

Regards,

Jorge Ortiz Soldevila  
Account Manager  
Nalco Company  
787-385-9354  
jortiz1@nalco.com

  
AmgenComplain.pdf

EX 11  
3

June 23, 2008

Ashok Duggal  
Area Manager  
Nalco Company  
Caguas, Puerto Rico

Ashok:

As you requested, last week I called Kenneth Colón (Utilities Mgr.) from Amgen Pharmaceutical, in order to attend his complaint of the lack of service received from Donato Aponte at this site. A meeting was set for last Thursday 19, 2008 at 2:00 pm, where Jorge Castillo (Nalco Regional Mgr), Kenneth Colón, Roberto Picou (Amgen Utilities Eng) and Myself participated in the mentioned meeting.

A summary of their complaints is as follow:

1. They do not perceive from Donato a professional level of service at the high standard that Nalco is supposed to deliver.
2. They feel Donato has not been effective in providing a solution for the White Rust problem in the system. He requested a report in order to present and protect the new cooling Tower System from White Rust Corrosion, and the report was submitted almost six months later. He also mentioned that Chemtreat, which is the supplier in the other Amgen Plant, was contacted for a recommendation on how to handle the new cooling tower against the White Rust problem, and at the next day, a complete and a very professional report was presented. He emphasized many times of the quick and the professional response he received from our competitor.
3. They mentioned that at this moment they feel that are only buying from Nalco chemical products, not solutions or the level of service that they would expect to receive.
4. They do not feel Donato is taking care of their equipment and systems, as they would like. His communication and reporting have been very poor or none.
5. They mentioned that chemical consumption has decreased, but they have not been told the reason why. They don't know if we are under feeding chemicals and letting the system without protection due to the lack of service, or if any efficiency improvement has been made.
6. They have requested a report from Donato several times, of the recommendations for the chemical treatment changes needed for the boiler system, where they will be using a new type of make up water (RO reused water from WWTP), and nothing has been received yet.
7. They also mentioned that over almost 3 months ago, Edward Bray has not made any service call at any of the other buildings where closed loops were supposed to be serviced by Nalco.
8. Roberto Picou emphasized that he recognizes the technical knowledge that Donato might have, but with such a poor communication and reporting skills, and the poor response time when something is requested, his service is not valuable to him.

As an immediate action plan, we notified Kenneth and Roberto, that beginning immediately, Crispin Hernandez, you (Ashok Duggal) and Myself (Jorge Ortiz) would take the total responsibility of servicing this account. We expressed to them our commitment in a high and valuable service level that we should be providing to their plant, and that for us, this lack of service received is fully unacceptable. I already communicated to Donato and Edward our decision in removing them from the responsibility of servicing this account, and all of the customer complaints. Neither Donato nor Edward rejected the decision.

Regards...

Jorge Ortiz  
Account Manager  
Nalco - Puerto Rico  
787-385-9354

## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 12**

Ashok P Duggal  
05/23/2008 07:06 AM  
To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: Fw: Reportes

Que esta pasando????

-----  
Ashok Pablo Duggal  
Area Manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
-----

----- Forwarded by Ashok P Duggal/USA/Latin/Nalco on 05/23/2008 08:06 AM

Dennis J Lopez  
05/22/2008 08:04 PM  
To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc: Ashok P Duggal/USA/Latin/Nalco@NALCO  
Subject: Reportes

Donato, no he visto reportes de:

Marriott St Kitts- Abril, Mayo  
Alpla Barbados-Abril, Mayo  
Sandals Regency-"""  
Sandals Grand-""""

Por favor enviamelos  
saludos,

Dennis J. Lopez  
Senior Account Manager  
Nalco Company  
cell (787) 399-3947  
office (787) 746-3500  
fax (787) 746-3457  
www.nalco.com

file:///F:/Nalco/Reps/DA/DA email DL complaint

Ex12  
5/29/2009

Ashok P Duggal  
05/23/2008 07:06 AM  
To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: Fw: Reports

Page 1 of 1

What is going on????

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

----- Forwarded by Ashok P Duggal/USA/Latin/Nalco on 05/23/2008 08:06 AM

Dennis J Lopez  
05/22/2008 08:04 PM  
To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc: Ashok P Duggal/USA/Latin/Nalco@NALCO  
Subject: Reports

Donato, I have not seen reports for:

Marriott St Kitts - April, May  
Alpla Barbados - April, May  
Sandals Regency - " "  
Sandals Grand - " "

Please send them to me

Regards,

Dennis J. Lopez  
Senior Account Manager  
Nalco Company  
cell (787) 399-3500  
office (787) 746-3500  
fax (787) 746-3457  
www.nalco.com

file:///F:/Nalco/Reps/DA/DA\_email\_DL.complaint

5/29/2009

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## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 13**

Ashok P Duggal  
05/30/2008 11:24 AM  
To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: Re: PRESENTACION

Donato, muy bueno.

Necesito que arregles lo siguiente lo antes posible para Wyeth.  
Detallar mejor los datos.  
Poner notas en las tablas y graficas, enfatizando y explicando.  
Hacer una tabla final mejor resumiendo: Que viste, buenas y no buenas,  
problemas, sus consecuencias, como corregir, y ahorros si se corregen.

Para cuando tenemos esto?

---

Ashok Pablo Duggal  
Area Manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com

---

Donato Aponte  
05/30/2008 05:43 AM  
To: Ashok P Duggal/USA/Latin/Nalco@NALCO  
cc: Manuel Rivera Ramos/NV/US/Nalco@NALCO  
Subject: PRESENTACION

Ashok:

Esta es la presentacion de Manuel.

Donato Aponte  
District Representative  
Nalco Co.  
787-385-9352  
daponte@nalco.com  
www.nalco.com

#### COOLING TOWER PERFORMANCE Wyeth Guayama 5\_14.ppt has been removed  
from this note on May 30 2008 by Ashok P Duggal  
#### CT Performance Audit Guayama Torre 2.xls has been removed from this  
note on May 30 2008 by Ashok P Duggal

file:///F:/Nalco/Reps/DA/DA email Wyeth CT test 2

EX13  
5/29/2009

Ashok P Duggal  
05/30/2008 11:24 AM  
To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: Re: Presentation

Page 1 of 1

Donato, very good.

I need you to fix the following as soon as possible for Wyeth.  
Provide more details on info.  
Put notes on tables and graphics, emphasizing and explaining.  
Create a final table summarizing better: what did you see, good and not good,  
problems, their consequences, how to correct, and savings if they are  
corrected.

By when will we have that?

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

Donato Aponte  
05/30/2008 05:43 AM  
To: Ashok P Duggal/USA/Latin/Nalco@NALCO  
cc: Manuel Rivera Ramos/NV/US/Nalco@NALCO  
Subject: Presentation

Ashok:

This is Manuel's presentation.

Donato Aponte  
District Representative  
Nalco Co.  
787-385-9352  
daponte@nalco.com  
www.nalco.com

#### COOLING TOWER PERFORMANCE Wyeth Guyana 5\_14.ppt has been removed  
from this note on May 30 2008 by Ashok P Duggal  
#### CT Performance Audit Guyana Torre 2.xls has been removed from this  
note on May 30 2008 by Ashok P Duggal

file:///F:/Nalco/Reps/DA/DA\_email Wyeth CT test 2

5/29/2009

## **Exhibit A**

### **Plaintiff's Deposition Exhibit No. 15**

Ashok P Duggal  
06/21/2008 12:25 PM  
To: Donato Aponte/USA/Latin/Nalco@NALCO  
cc:  
Subject: Fw: Service Report

Donato,

I am very displeased with your performance lately. This is not the level of work of a Nalco Sales Rep with your experience. I have sent several email during the past few weeks asking for your action plan on how to improve your quality of service: timely report submitting, visit frequency, and general Nalco Representative attitude improvement, and after some weeks I have still not received anything. Please be prepared to discuss this Wednesday, May 25 in our office.

-----  
Ashok Pablo Duggal  
Area Manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
-----

----- Forwarded by Ashok P Duggal/USA/Latin/Nalco on 06/21/2008 12:21 PM

<Vernon.Harris@alpla.com>  
06/18/2008 06:50 AM  
To: <dlopez@nalco.com>  
cc: <aduggal@nalco.com>, <jcastillo@nalco.com>  
Subject: RE: Service Report

No I have not as yet

From: Dennis J Lopez [mailto:dlopez@nalco.com]  
Sent: Tuesday, June 17, 2008 10:22 PM  
To: Harris Vernon  
Cc: Ashok P Duggal; Jorge Castillo  
Subject: Service Report

Vernon please advise if you have received the service report from Donato.

thanks and regards

Dennis J. Lopez  
Senior Account Manager  
Nalco Company  
cell (787) 399-3947  
office (787) 746-3500  
fax (787) 746-3457  
www.nalco.com

file:///F:/Nalco/Reps/DA/DA email Alpla reports

*BN*  
5/29/2009

## **Exhibit A**

# **Plaintiff's Deposition Exhibit No. 18**

			
		<p><b>COMMUNICATING OUR COMMITMENT TO EQUAL EMPLOYMENT OPPORTUNITY</b></p>	
			

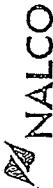
EX18

## Mission Statement for EEO

We are committed to administering HR policies that will ensure standards are consistently applied and communicated providing the best legal protection and internal controls for our employees, customers and the Company.

By taking a proactive, timely approach we ensure all company and government requirements are fulfilled and quality controls are placed around all our internal and external EEO reporting requirements.

We manage Company risk by advising on employee related issues to limit liability. We will conduct unbiased investigations and obtain appropriate documentation while educating our managers and employees to ensure equality and fairness throughout the organization.



We are committed to administering HR policies that will ensure

standards are consistently applied and communicated providing the best legal protection and internal controls for our employees, customers and the Company.

By taking a proactive, timely approach we ensure all company and government requirements are fulfilled and quality controls are placed around all our internal and external EEO reporting requirements.

We manage Company risk by advising on employee related issues to limit liability. We will conduct unbiased investigations and obtain appropriate documentation while educating our managers and employees to ensure equality and fairness throughout the organization.

## Notice to all Employees

It is the responsibility of every employee to ensure Nalco continues to be a world-class organization. Your cooperation and commitment to our values, policies and training objectives are what it takes to succeed in making Nalco a global leader.

Each Business Division/Group has been assigned an HR Business Partner in support of these efforts. Your Business Partner is available if you have any questions or concerns in regards to Nalco's Equal Employment Opportunity and Harassment Policy and other issues as needed.

If you have additional questions or concerns about Nalco's Equal Employment Opportunity and Harassment Policy or other concerns, please contact the Manager of EEO in Naperville.

Nalco Company  
1601 West Diehl Road  
Naperville, IL 60563-1198  
630.305.1000  
[www.nalco.com](http://www.nalco.com)

Dear Nalco Employee:

As a company, we believe that all individuals who compose our workforce should be treated with respect and dignity.

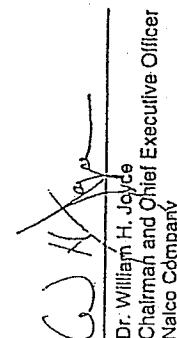
Attached to this letter is Nalco's Equal Employment Opportunity and Harassment Policy. We encourage you to read this policy carefully to ensure understanding of our policy and your rights and obligations under it.

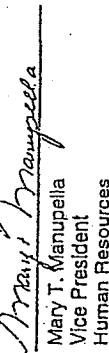
Harassment, even in its most subtle form, is in direct conflict with Company policy on acceptable standards of workplace behavior and will not be tolerated.

You will receive information from the EEO Department after you begin employment regarding a mandatory training program designed to enhance your understanding of what constitutes harassment in the workplace, how to avoid it and what to do if it occurs.

Each of us has the responsibility to help ensure that our workplace is harassment-free. Your cooperation and commitment to the harassment policy and training objectives are essential if we are to reach this important business goal.

Thank you for your efforts to ensure that Nalco continues to be a workplace of mutual respect.

  
Dr. William H. Joyce  
Chairman and Chief Executive Officer  
Nalco Company

  
Mary T. Manupella  
Vice President  
Human Resources



## NALCO COMPANY EQUAL EMPLOYMENT AND HARASSMENT POLICY

### Equal Employment Opportunity Policy

Nalco Company ("Nalco") is an Equal Opportunity Employer and provides and promotes equal opportunity for all employees and job applicants in all aspects of employment. Nalco's commitment to equal employment opportunities includes all decisions related to recruiting, hiring, compensation, promotion, transfer, corrective action, layoff, termination, training, and all other terms and conditions of employment. To this end, Nalco prohibits unequal treatment of employees or applicants (discrimination) on the basis of race, color, gender (sex), pregnancy, sexual orientation, religion, national origin, ancestry, citizenship, age, disability or handicap, veteran status, genetic information, or any other characteristic or condition protected by national, state, or local law.

It is our intent to provide an environment where all employees are comfortable and free of harassment so that they may perform at their optimum level and have long, successful and enjoyable careers.

Any employee or applicant who feels that he or she has been the subject of discrimination or harassment should report the incident promptly as described below in the "Reporting Procedure" section of this policy.

### Prohibition on Harassment Including Sexual Harassment Policy

**Purpose of Policy.** The purpose of this policy is to inform all Nalco employees of Nalco's prohibition on harassment, and to inform all employees of the procedure to report any such conduct. In this way Nalco may prevent discrimination, including harassment, and may correct inappropriate conduct before it becomes severe or pervasive.

**Prohibition.** Nalco is committed to providing a professional work environment for all of its employees which is free from verbal, physical, or psychological harassment.

Specifically, because every employee and applicant is entitled to fair and equal treatment regardless of the individual's race, color, gender (sex), sexual orientation, religion, national origin, ancestry, citizenship, age, disability or handicap, veteran status, genetic information, or any other characteristic or condition protected by national, state, or local law, Nalco prohibits and will not tolerate harassment whether it be by a supervisor, coworker, customer, or vendor. Nalco will impose appropriate disciplinary action on any individual who engages in such prohibited activity.

### Additional Information



**Harassment Defined.** Harassment means any unwelcome verbal or physical conduct which is based upon an individual's race, color, gender (sex), pregnancy, sexual orientation, religion, national origin, ancestry, citizenship, age, disability or handicap, veteran status, genetic information, or any other characteristic or condition protected by law. Harassment can occur even if the unwelcome verbal or physical conduct was not intended to be harassing or offensive.

**Examples of Harassment.** Harassment encompasses a broad range of unwelcome verbal or physical behavior which, for example, may include but is not limited to:

- physical or mental abuse,
- racial insults,
- derogatory ethnic jokes,
- religious slurs,
- taunting intended to provoke an employee,
- conditioning, hiring, promotion, assignment, or similar action on acceptance of harassing conduct.

Any such harassment is grounds for appropriate disciplinary action against the offender up to and including termination.

**Specific Explanation/Definition/Examples of Sexual Harassment.** Sexual Harassment is a specific form of prohibited harassment. It may arise from verbal statements or physical actions or both directed at or in the presence of any employee. It may arise from a single incident, or from a pattern of behavior which has the purpose or effect of creating a hostile, offensive, or intimidating work environment. It may arise where words or conduct create a hostile environment regardless of whether the words or conduct were directed to a member of the same or the opposite sex, regardless of whether the harasser is sexually attracted to the victim and regardless of whether the words or conduct were intended to create a hostile work environment. It encompasses a broad range of physical or verbal acts which may include, but are not limited to the following examples:

1. **Verbal**—Making unwelcome sexual advances, requesting sexual favors, using sexually vulgar language, telling dirty jokes, making remarks about an individual's anatomy or sexual attributes, commenting about a person's sexuality, sexual experiences or about sexual matters, making sexual noises, making derogatory comments about gender, making repeated unwelcome requests for dates or other propositions, stating or implying that a particular employee's advances in employing or continuance of a sexual relationship, stating or implying that a particular employee's deficiencies in performance are attributable in whole or in part to the sex of that person, commenting on particular characteristics associated with a particular sex, or engaging in other verbal conduct of a sexual nature with a member of the same or the opposite sex,



## NALCO

2. Physical—Touching in a sexual manner or invading personal privacy, making sexual gestures, staring at a person's body, other unwanted touching such as pinching, patting, fondling, grabbing, brushing against or poking;
3. Quid Pro Quo—Explicitly or implicitly conditioning any aspect of an employee's employment on the employee's response to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature; and
4. Displaying or Distributing Inappropriate Material—Distributing written or graphic sexual material whether by e-mail or through hard copies, displaying of sexually oriented magazines or displaying sexually oriented posters or photographs

### Reporting Procedure to Report Discrimination, Including Harassment.

Report Discrimination or Harassment to Supervisor, or EEO/HR contact, or Nalco Officer for your location. Any employee who feels that he or she has been discriminated against or harassed should promptly report the behavior to his or her immediate supervisor, if that supervisor did not participate and was not aware of the conduct. If that immediate supervisor participated or was aware of the conduct, or if the conduct continues, or if the employee feels uncomfortable registering the complaint with the supervisor, the employee should contact the appropriate EEO/HR contact (listed below), or any officer of Nalco promptly. This initial report can be oral or written. If the complaint is against a customer or vendor, the supervisor and the EEO/HR contact will select the most appropriate means of investigating the complaint and of protecting the employee against future harassment (sexual or otherwise).

Investigation/Opportunity to Respond. When Nalco receives a complaint it will promptly investigate. Nalco will inform the alleged offender of the nature of the complaint, and will provide the alleged offender an opportunity to respond.

Failure of Alleged Offender to Respond to Complaint. If the alleged offender fails to respond to the complaint promptly, as requested, Nalco may take appropriate disciplinary measures as warranted.

The Investigation and Conclusion. The investigator will conduct a review of the facts including possible interviews with parties and witnesses, and will conclude whether or not this policy has been violated. Both parties will be notified of the conclusion.

- Disciplinary Action. If the Investigator determines that this policy has been violated, Nalco will take appropriate disciplinary action. The severity of the discipline will be determined by the severity and frequency of the offense and other conditions surrounding the incident and may include termination.

- Failure to Report Promptly. Any employee aware of perceived harassing conduct should report the conduct promptly because failing to promptly report such conduct may prevent Nalco from correcting the situation promptly or hinder a subsequent investigation.

Management Duty to Forward Reports to EEO/HR Contact. Every Nalco supervisor, manager or officer of Nalco who receives a report of discrimination or harassment, whether oral or written, formal or informal, or who becomes aware of harassing conduct, is responsible for forwarding the report to the EEO/HR contact and for otherwise adhering to this policy.

Confidentiality. Nalco's EEO/HR Department will investigate each complaint promptly and will endeavor to keep the identity of the reporting party and the alleged offender confidential except to the extent necessary to conduct the investigation.

Retaliation Prohibited. Nalco strictly prohibits any retaliation against an employee who, in good faith, reports conduct the individual believes to be discriminatory or harassing. Any supervisor, agent or other employee of Nalco who retaliates against any employee for making a good faith report of discrimination or harassment will be subject to appropriate discipline up to and including termination.

If an employee believes he or she has been retaliated against for exercising his or her rights under this policy, the employee should report such conduct using the reporting procedure set forth in this policy. Although retaliation against an employee who, in good faith, makes a complaint of harassment is prohibited, false accusations also have consequences. Any employee that makes a false accusation without a good faith reasonable belief in the truth of the allegation, is subject to discipline.

Nalco trusts that all of its employees will continue to act responsibly to maintain a pleasant working environment free of discrimination. We encourage all employees to raise questions they may have regarding this policy with their supervisor, the EEO/HR contact, or any Nalco Officer.